



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,108	07/17/2006	Oddvin Reiso	2006_0560A	1717
513	7590	08/30/2010		
WENDEROTH, LIND & PONACK, L.L.P. 1030 15th Street, N.W., Suite 400 East Washington, DC 20005-1503			EXAMINER	YANG, JIE
			ART UNIT	PAPER NUMBER
			1793	
			NOTIFICATION DATE	DELIVERY MODE
			08/30/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com
coa@wenderoth.com

Advisory Action Before the Filing of an Appeal Brief		Application No. 10/576,108	Applicant(s) REISO ET AL.
		Examiner JIE YANG	Art Unit 1793
<p>– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –</p> <p>THE REPLY FILED <u>20 August 2010</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.</p> <p>1. <input checked="" type="checkbox"/> The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:</p> <p>a) <input checked="" type="checkbox"/> The period for reply expires <u>3</u> months from the mailing date of the final rejection.</p> <p>b) <input type="checkbox"/> The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.</p> <p>Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).</p> <p>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p> <p>NOTICE OF APPEAL</p> <p>2. <input type="checkbox"/> The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).</p> <p>AMENDMENTS</p> <p>3. <input type="checkbox"/> The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because</p> <p>(a) <input type="checkbox"/> They raise new issues that would require further consideration and/or search (see NOTE below);</p> <p>(b) <input type="checkbox"/> They raise the issue of new matter (see NOTE below);</p> <p>(c) <input type="checkbox"/> They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or</p> <p>(d) <input type="checkbox"/> They present additional claims without canceling a corresponding number of finally rejected claims.</p> <p>NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).</p> <p>4. <input type="checkbox"/> The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).</p> <p>5. <input type="checkbox"/> Applicant's reply has overcome the following rejection(s): _____. </p> <p>6. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).</p> <p>7. <input type="checkbox"/> For purposes of appeal, the proposed amendment(s): a) <input type="checkbox"/> will not be entered, or b) <input type="checkbox"/> will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.</p> <p>The status of the claim(s) is (or will be) as follows:</p> <p>Claim(s) allowed: _____. Claim(s) objected to: _____. Claim(s) rejected: _____. Claim(s) withdrawn from consideration: _____. </p> <p>AFFIDAVIT OR OTHER EVIDENCE</p> <p>8. <input type="checkbox"/> The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).</p> <p>9. <input type="checkbox"/> The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fail to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).</p> <p>10. <input type="checkbox"/> The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.</p> <p>REQUEST FOR RECONSIDERATION/OTHER</p> <p>11. <input checked="" type="checkbox"/> The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet</u></p> <p>12. <input type="checkbox"/> Note the attached <i>Information Disclosure Statement(s)</i>. (PTO/SB/08) Paper No(s). _____</p> <p>13. <input type="checkbox"/> Other: _____. </p> <p>/ Roy King/ Supervisory Patent Examiner, Art Unit 1793</p> <p style="text-align: center;">/JieYang/</p>			

There is no amendment in the instant claims. Claims 5, 7, and 8 remain for examination.

Continuation of 11, does NOT place the application in condition for allowance:

The Applicant's arguments filed on 8/20/2010 with respect to claims 5, 7, and 8 have been fully considered but they are not persuasive.

Applicant's arguments are summarized as follows:

- 1, The claims, Table 1, and examples of US'359 do not overlap the specified range of Mg and Mn as defined in claim 5 of the present application: 0.35-0.5Mg; 0.03-0.06wt%Mn; 0.15wt%Zn; and 0.1wt%Cu.
- 2, The Examiner should consider all rebuttal arguments and evidence presented by Applicants because Applicants have in fact demonstrated the criticality of the Mn content range 0.03-0.06wt% in accordance with the presently claimed invention (refer to Fig.7 and 8 and page 6 line 34 to Col.8, line 12 of the instant specification).
- 3, If more than 0.06wt%Mn is added to the alloys there is a negative effect on the quench sensitivity of the extruded profile, and thus the Mn level is between 0.03wt% and 0.06wt% for these alloy. This is not disclosed or suggested in US'359.

Responses are as follows:

Regarding arguments 1 and 2, as pointed out in the previous office action marked 6/3/2010, The Examiner notes that US'359 specifically teaches the effect of alloy elements, such as Si, Mg, and Mn to the material's properties (Fig.1-15 of US'359), which includes the sample containing of 0.35wt%Mg (Fig. 2-4, 6, and 14); and 0.03-0.06wt%Mn (Fig.10-13 of US'359). All these samples overlap the Mg and Mn ranges as recited in the instant claims. The Examiner further notes that there is none of the experimental data (table 1-4 of the instant specification) has the claimed 0.05wt%Cr, 0.15wt%Zn, and 0.1wt%Cu. Therefore, these data and related Figures are insufficient to support the Applicant's argument.

Regarding the argument 3, US'359 specifically teaches the effect of Mn content to the structure of the aluminum alloy which includes the sample containing of 0.03-0.06wt%Mn (Fig.10-13 of US'359). Although US'359 does not teach the effect of quench sensitivity of the extruded profile, however this property would be highly expected in the alloy of US'359 because all of the major composition ranges disclosed by US'359 (Table 1, claims, and examples of US'359) overlap or is close to the composition ranges of the instant invention. MPEP 2112.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jie Yang whose telephone number is 571-2701884. The examiner can normally be reached on IFP. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-2721244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.